

ARTICLE VI. DANGEROUS DOGS*

***Cross references:** Rabies control, § 6-17; running at large prohibited, § 6-101.

Sec. 6-151. Definitions.

As used in this article the following words and phrases shall have the meanings herein ascribed to them, unless the content of their usage clearly indicates another meaning:

Bodily injury means physical pain, illness, or any impairment of physical condition that results from a bite or attack by a dog.

Dangerous dog has the meaning ascribed in section 822.041 of the Health and Safety Code, as amended from time to time.

Hearing officer shall mean the director or any person he may designate to conduct a hearing under this article, provided such person shall not have participated in any investigation of the facts regarding the alleged dangerous dog or be in the chain of command of any such person.

Owner has the meaning ascribed in section 822.041 of the Health and Safety Code, as amended from time to time.

Secure enclosure means a fenced area or structure that is:

- (1) At least 6 feet in height;
- (2) Locked;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Capable of preventing the escape or release of a dangerous dog; and
- (5) Clearly marked as containing a dangerous dog.

Serious bodily injury has the meaning ascribed in section 822.001 of the Health and Safety Code, as amended from time to time.

Unprovoked means action by a dog that is not:

- (1) In response to being tormented, abused, or assaulted by any person;
- (2) In response to pain or injury; or
- (3) In protection of itself or its food, kennel, or nursing offspring.

(Ord. No. 86-795, § 1, 6-3-86; Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-152. Impoundment order; surrender.

(a) Upon receipt of a sworn, written complaint by any person, in a form approved by the director, that any dog situated within the city may constitute a dangerous dog, the director shall cause an investigation to be conducted. If upon investigation, the director reasonably believes that grounds exist to declare the dog a dangerous dog, he shall issue a written order, which includes the grounds for the order, that the dog be impounded at the city's animal impoundment facilities at the licensee's or owner's expense pending a hearing to determine whether the dog is dangerous as defined in this article.

(b) It shall be unlawful for any person to refuse to surrender to any city officer or employee who has presented a true copy of such order to the person any dog for which an impoundment order has been issued.

(Ord. No. 86-795, § 1, 6-3-86; Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-153. Determination hearing.

(a) The director shall cause written notice to be given to the licensee or owner that a hearing will be conducted to determine whether the animal is a dangerous dog. Such notice shall include the following:

(1) The place where the hearing will be conducted.

(2) The date and time of the hearing, which shall be not later than the tenth day after the impoundment of the animal; provided that the hearing officer may continue the hearing upon the written request of the licensee or owner or upon the written certification of the attending physician of a person injured by the dog that the injured person is not medically able to attend the hearing, or in the event that it is necessary to give notice of the hearing by newspaper publication.

(3) That the licensee or owner may appear at the hearing and present evidence, cross examine witnesses and be represented by legal counsel.

(4) That the dog may be ordered euthanized if the hearing officer finds that it is a dangerous dog.

(5) That the licensee or owner may request a probable cause hearing pursuant to section 6-156 of this Code.

The notice may be given by personal delivery or sent by certified mail, return receipt requested, to the last known address of the licensee or owner. If the director is unable to effect delivery of notice by personal delivery or by mail, he shall cause the notice to be published one time in a newspaper of general circulation and to be posted in a conspicuous public place at the city's animal impoundment facility, each of which acts shall be done at least seven business days prior to the date of the hearing.

(b) The hearing shall be conducted by the hearing officer under rules consistent with the nature of the proceeding. The burden of proof shall be upon the city to establish, by a preponderance evidence presented at the hearing, that the dog is, a dangerous dog. At the conclusion of the hearing, the hearing officer shall enter a written order with factual findings as to whether the dog is a dangerous dog. At the conclusion of the hearing, the hearing officer may:

(1) Determine that a dog is not dangerous and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its licensee or owner, provided that the dog may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Code;

(2) Determine that a dog is dangerous and order the licensee or owner to comply with the requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and, if the dog is impounded, release the dog to its licensee or owner in accordance with subsection (d) of this section; or

(3) Determine that a dog has killed or caused serious bodily injury to a person and order the dog to be seized and humanely euthanized.

(c) If a dog is determined to be dangerous, the director shall notify the licensee or owner, either in person or by certified mail, return receipt requested:

(1) That the dog is dangerous;

(2) Whether the dog has been ordered to be humanely euthanized;

(3) If the dog has not been ordered to be humanely euthanized, what the licensee or owner must do to comply with requirements for ownership of a dangerous dog and to reclaim the dog, if impounded; and

(4) That the licensee or owner has a right to appeal a determination of dangerousness or an order to euthanize.

(d) An impounded dog determined by the hearing officer to be dangerous shall remain impounded or confined at a location approved by the director and will not be released to the licensee or owner until the licensee or owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended from time to time. If all impoundment fees have not been paid and all requirements have not been met within 30 days after a final determination that a dog is dangerous, the hearing officer may cause the dog to be humanely euthanized.

(Ord. No. 86-795, § 1, 6-3-86; Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-154. Requirements for owner of a dangerous dog.

Not later than the 30th day after the date a licensee or owner learns that he is the owner of a dangerous dog that is not to be humanely euthanized, the licensee or owner shall:

(1) Comply at all times with the requirements set forth in Subchapter D, Chapter 822 of the Texas Health and Safety Code;

(2) Permit the department to implant a microchip in the dog which will identify it as a dangerous dog;

(3) Affix a red, city-issued "dangerous dog" tag to the dog's collar that must be worn by the dog at all times and renewed annually;

(4) Restrain the dangerous dog at all times on a leash, no longer than 6 feet in length, in the immediate control of a person at any time the dog is not in a secure enclosure;

(5) Confine the dog in a secure enclosure except as provided in the preceding item; and

(6) Obtain liability insurance coverage in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a

person and provide proof of the required liability insurance coverage to the department.

(Ord. No. 86-795, § 1, 6-3-86; Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-155. Seizure and impoundment of a dangerous dog

(a) The director shall seize and impound or order seizure and impoundment, at the licensee's or owner's expense, of any dog previously determined to be dangerous if:

(1) The licensee or owner violates any provision of this article or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or

(2) The dog causes bodily injury to any person.

(b) If a previously determined dangerous dog has been seized and impounded under this section, the hearing officer shall conduct a hearing to determine if the dog should be returned to the licensee or owner or humanely euthanized. The hearing must be conducted within eight business days after the date of seizure, and the hearing officer shall provide written notice of the hearing either in person or by certified mail, return receipt requested, to the licensee or owner. In no event shall the hearing be conducted less than seven business days after the notice has been mailed or delivered to the licensee or owner.

(c) At the conclusion of a hearing required under this section, the hearing officer may order that the dog either be returned to the licensee or owner in accordance with subsection (d) of this section or be humanely euthanized.

(d) A dangerous dog seized and impounded under this section shall not be returned to the licensee or owner until the licensee or owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. If all impoundment fees have not been paid and all requirements have not been met within ten business days after the hearing officer issues the order to return the dog to the licensee or owner, the hearing officer may cause the dog to be humanely euthanized.

(Ord. No. 86-795, § 1, 6-3-86; Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-156. Probable cause hearing.

Any licensee or owner whose dog has been impounded may, at any time prior to the hearing scheduled pursuant to section 6-153 or section 6-155 of this Code, request an informal probable cause hearing by written request delivered to the office of the director. The hearing officer shall conduct the hearing within 48 hours after receipt of the request, Saturdays, Sundays and city holidays excepted. The hearing shall be conducted informally, and the hearing officer may consider city investigative reports, medical records, and affidavits, as well as any testimony or documentary evidence offered by the licensee or owner. If the hearing officer finds that probable cause does not exist to detain the dog for a hearing under section 6-153 of this Code, he shall cause the impoundment order to be withdrawn. If the impoundment order is withdrawn, the animal shall be forthwith released, provided that it may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Code.

(Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-157. Unlicensed dogs, rabies quarantine.

(a) The provisions of this article shall not be construed to require the issuance of an impoundment order or the conduct of a hearing for the impoundment or euthanasia of any dog that is found to be running at large in violation of city ordinances. In the event that any dog impounded for such cause is claimed for redemption, the director may, if he has grounds to believe that it is a dangerous dog, issue notice of a hearing pursuant to section 6-153 of this Code to the person claiming the dog and continue to hold the dog unless and until it is authorized to be released pursuant to section 6-153 or 6-155 of this Code.

(b) The provisions of this article shall not be construed to require the issuance of an impoundment order for the impoundment of any dog for rabies quarantine pursuant to applicable provisions of the Code or state law. In the event that a dog is already impounded in the city's facilities for such reason, and the director determines that it may be a dangerous dog, he may issue a notice of hearing under section 6-153 or 6-155 of this Code and continue to hold the dog unless and until it is authorized to be released pursuant to section 6-153 or 6-155 of this Code.

(Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-158. Appeal from a determination as a dangerous dog.

If the hearing officer determines a dog is a dangerous dog under section 6-153 of this Code, that decision is final unless the licensee or owner files a written appeal with the municipal court not later than the 15th day after the date the licensee or owner received notice that the dog is dangerous. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the director's determination of dangerousness.

(Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-159. Appeal from an order to euthanize.

If the hearing officer orders a dangerous dog to be humanely euthanized under section 6-153 or section 6-155 of this Code, that decision is final unless the licensee or owner files a written appeal with the municipal court within five business days after receiving notice of the order to euthanize. If an appeal is timely filed, the director shall suspend the order to euthanize pending final determination of the court. The appeal hearing must be a trial de novo and is a civil proceeding for the purpose of affirming or reversing the director's order to euthanize.

(Ord. No. 06-996, § 3, 10-4-06)

Sec. 6-160. Dangerous dog owned or harbored by minor.

If the licensee or owner of a dangerous dog is a minor, the parent or guardian of the minor shall be liable for all injuries and property damage sustained by any person or domestic animal in an unprovoked attack by the dog.

(Ord. No. 06-996, § 3, 10-4-06)

Sec 6-161. Violations; defenses.

(a) A person commits an offense if he violates, or fails to perform an act required by, a provision of this article or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended. A person commits a separate offense each day or part of a day during which a violation is committed, permitted, or continued.

(b) An offense under this article is a Class C misdemeanor.

(c) Any defense to prosecution under Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is a defense to prosecution under this article.

(d) Any defense to an order to euthanize under Section 822.003 (f) of the Texas Health and Safety Code, as amended, is a defense under this article.

(Ord. No. 06-996, § 3, 10-4-06)

Sec 6-162. Dangerous dog database.

The department shall maintain a detailed database of all dogs deemed to be dangerous. The database shall include, but not be limited to, information such as the licensee's or owner's name, address, phone number, the dangerous dog case number, the assigned microchip number, and all identifying information regarding the dog.

(Ord. No. 06-996, § 3, 10-4-06)